

**CITY OF NORWALK
THIRD TAXING DISTRICT
REGULAR MEETING
AUGUST 26, 2002**

ATTENDANCE: David L. Brown, Chairman; Stephen M. Feinstein,
Paul S. Coggin

STAFF: Tom Lyons, Ron Scofield

OTHERS: Lawrence P. Dennin, District Counsel, Lovejoy
and Rimer, P.C.

The Chairman opened the meeting at 7:06 p.m.

PUBLIC COMMENT

There was no public comment.

APPROVAL OF THE MINUTES - JULY 8, 2002

The date in the heading should read July, not June.

**** MR. FEINSTEIN MOVED TO ACCEPT THE MINUTES AS CORRECTED.
** MR. BROWN SECONDED.
** MOTION PASSED WITH ONE ABSTENTION (MR. COGGIN).**

REPORT FROM STEVE FEINSTEIN ON APPA CONFERENCE

Mr. Feinstein distributed a written report on the APPA Conference of June 11, 2002.

Mr. Coggin asked a question regarding the licensing of the power plants. Mr. Feinstein stated he did not hear anything about this issue at the conference.

Mr. Coggin also asked about a regulation proposed by Ms. Bromwell, but again there was no activity on this item. Some of the points from Ms. Bromwell were put into his written report.

Mr. Feinstein discussed the point sheet distributed by the Task Force for Power in the

21st Century at the APPA Conference. He recommended a copy be purchased for each member of the Commission and the office.

He stated that his comments were general in the report because an individual could not gain what he had unless they attended the conference. He emphasized the importance of the Commissioners attending the national conferences personally. The next one will be June 15, 2003.

Mr. Brown questioned all Commissioners traveling to a specific meeting. Attorney Dennin stated that it was not a social event, but in the interest of the public and would not present a problem.

Mr. Coggin inquired whether there was a NEPA meeting coming up. Mr. Feinstein stated there was only one APPA/NEPA meeting per year. The dates for next year have not been published.

Mr. Brown inquired whether the CD should be purchased for all that was included in the package along with printed material. Mr. Feinstein stated that the material comes as a complete package including the CD.

Mr. Brown agreed that this information is important and the feedback is valuable.

**** MR. COGGIN MOVED TO SUSPEND THE RULES TO ADD THE
PURCHASE OF THE APPA PACKAGE.
** MOTION PASSED UNANIMOUSLY.**

**** MR. BROWN MOVED TO PURCHASE TWO SETS OF THE APPA
CONFERENCE MATERIALS FOR THE COMMISSIONERS AND ONE SET FOR
THE OFFICE AT A COST OF \$7.00 PER PACKAGE PLUS SHIPPING AND
HANDLING.**

**** MR. FEINSTEIN SECONDED.
** MOTION PASSED UNANIMOUSLY.**

DISCUSSION AND APPROVAL OF AUTOMATIC EXTERNAL DEFIBRILATORS

Mr. Feinstein said that at the APPA conference vendors displayed the latest equipment and information. He spoke with a number of them about items worthy of pursuing for the Third District. Philips Medical Systems was a new vendor. They have worked out a deal for APPA members to acquire Automatic External Defibrillators at a reduced cost. The system comes with visual and audible instructions. Among linemen, heart failure is

the major cause of death. There is a videotape that was played for the Commissioners to see the use of AEDs in the community. The model demonstrated was an FR2. As a member of APPA, the unit would be at a 35% discount totaling \$2,268.50 each. The Fire Department is already carrying defibrillators.

Mr. Coggin asked what the additional accessories would run. Mr. Feinstein stated it would be about \$500.

Mr. Feinstein recommended purchasing two units. One placed in the main linemen bucket truck and one on the meter truck. He suggested that the Red Cross train the administrator of the units. He also suggested that all employees be trained.

Mr. Lyons stated that all employees are trained once per year in CPR. The Police Department has three defibrillators units.

Mr. Feinstein suggested partnering with City Hall who is said to have two units. They would purchase the accessories and put up signage for the units. There are other areas to consider placing the units in as well such as the beach, train station, etc.

Mr. Brown questioned the liability to the user. Mr. Lyon stated that once CPR is started the person is liable. This machine does all the work and will not perform if it is not required.

Mr. Brown stated that was his main concern. He said if someone used it that should not and whether the District would be responsible.

Mr. Feinstein said it was a move to assist the District employees when there is an injury affecting people's heart.

Mr. Coggin asked whether the District might purchase the item and be reimbursed by the City. Mr. Feinstein responded there are a number of options if they partner with the City.

Mr. Brown inquired whether there have been incidents requiring use of the unit in the last 10 years. Mr. Lyons responded there have been situations that have required such equipment.

Mr. Brown said he would like to explore this matter further. He recommended investigating the insurance and liability concerns. He suggested tabling the item until

the next meeting.

Mr. Coggin stated no vote was being taken and this was a discussion item only. Therefore, checking with the insurance agency and the attorney would be done and then the item could be brought up again and placed on a future agenda.

DISCUSSION AND APPROVAL OF RON SCOFIELD AS REVIEW OFFICER

Mr. Brown stated that the review officer was the former general manager. The description of the review officer position indicates that the individual should not be on the front lines with an irate customer. This would mean that Mr. Scofield would not be at the window involved in the settlement of a bill issue, but would review the matter after the front window person had handled it. This would only affect billing disputes, not union issues. The individual should be removed from the initial activity. Mr. Brown said that Mr. Scofield was the best employee for this position. He has been up at the front previously and has been a part of customer related issues.

**** MR. FEINSTEIN MOVED TO APPROVE RON SCOFIELD AS THE REVIEW OFFICER FOR THE THIRD TAXING DISTRICT COLLECTION DEPARTMENT.**

**** MR. BROWN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

APPROVAL OF RON SCOFIELD FROM TEMPORARY DISTRICT CLERK TO PERMANENT DISTRICT CLERK

Mr. Coggin inquired what the difference would be between temporary and permanent District Clerk.

Mr. Brown stated that he had been acting temporary clerk and someone else had his name in the running. However, the Commission was satisfied with Mr. Scofield and therefore the desire to make him permanent.

**** MR. FEINSTEIN MOVED TO APPOINT RON SCOFIELD AS DISTRICT CLERK FOR THE THIRD TAXING DISTRICT.**

**** MR. COGGIN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

DISCUSSION AND APPROVAL FOR METER DEPARTMENT EMPLOYEES TO ATTEND ONE-DAY SEMINAR

Mr. Brown stated that Messrs. Tim Lyons and Joe Charriott desire to attend a one-day seminar Metering Seminar on September 17, 2002. The meters are read by that date and they would be free to attend.

**** MR. FEINSTEIN MOVED APPROVAL FOR ATTENDANCE BY TWO EMPLOYEES OF THE METER DEPARTMENT FOR THE ABB METER SEMINAR ON SEPTEMBER 17, 2002.**

**** MR. COGGIN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

DISCUSSION AND PROPOSAL OF NEW FIREHOUSE LEASE

Mr. Brown referenced the lease between the Third Taxing District and the Fire Department distributed in the package. The stove and the toilet do not work, there is need for a lawn mower, air conditioner and other items. He was concerned that as the landlord whether the "Third Taxing District" should supply the items mentioned. This lease provides for payment of all the utilities and the exterminator. The lease expired in 1975 and has not been renegotiated. He informed the Mayor that this lease would be looked into for all the questionable areas.

Mr. Coggin said that a full market value rent increase should be phased in over a period of time. If they have a below market lease, the public should be informed that the District is funding the Fire Department building.

Mr. Brown said he did not want the threat held over the Commission that the firehouse would move out of the area if a lease was rewritten and an increase imposed. He said the District should not give away the use of the building and retain it in the District, but negotiate the changes in the rent and lease. An attorney should be consulted to negotiate with the City to see how the matter might be addressed. There should be a new Firehouse lease and it should be looked into.

Mr. Coggin summarized the understanding that the Commission obtain an appraisal of what the rent would be at market rate. Legal counsel would be required to handle the matter.

**** MR. BROWN MOVED TO HAVE THE PROPER PERSON REVIEW THE LEASE WITH THE CITY AND LOOK AT FAIR MARKET VALUE FOR THE COMMISSION TO RENT THE BUILDING AND HAVE AN OPEN DIALOGUE FROM WHICH A NEW LEASE MAY RESULT.**

Mr. Feinstein commented that his understanding was that Mr. Brown was concerned that the public is told what the District is spending to maintain this firehouse. Based on the current information, this item is being funded in the current budget through 2003 by the District. This should be an item on the annual meeting agenda versus this Commission's agenda.

Mr. Coggin said that the public is trusting the Commission to handle the budget. He said if the new lease were to start in 2003, an explanation could be made about the increase in revenue if the rent is raised.

Attorney Dennin commented said that this issue came up when Commissioner Brown received some inquiries from the Fire Department about some items that he was unsure the District should be paying for. He asked what was the content of the lease. He checked with the Corporation Counsel who gave him the lease under discussion tonight. It appears that the only item that is being carried out in the 1975 lease is the payment of rent at \$6,600 per year. There are precise provisions of who pays for what after that that are not being carried out. What the District has is a month-to-month tenant with some of the provisions of an old lease that are not being followed. He recommended that a new lease be written with new terms and conditions.

Mr. Brown restated that the public should be aware of the lease and what needs to be developed going forward with this lease that has been on the record for 25 years.

Mr. Coggin suggested getting a dialog going between the District and the Fire Department. It may end up being that things remain as they are and it may have no budget impact at all.

Mr. Feinstein noted that the City Charter may require that a firehouse be in the District. East Norwalk was originally the fire district. Mr. Coggin said it should be looked into.

Mr. Brown stated that they are first an electric company and as the fiduciary of the citizens' money, the Commission might add on additional items if they can be accomplished.

**** MR. BROWN WITHDREW THE MOTION.**

**** MR. COGGIN MOVED TO EXPLORE THE LEASE THAT EXPIRED IN**

1975 AND OPEN A DIALOG WITH THE CITY WITH THE HOPES OF COMING TOGETHER TO CREATE A NEW LEASE.

**** MR. BROWN SECONDED.**

**** MOTION PASSED WITH TWO VOTES IN FAVOR, ONE IN OPPOSITION (MR. FEINSTEIN).**

**** MR. BROWN MOVED TO SUSPEND THE RULES TO INCLUDE TWO ADDITIONAL ITEMS ON THE AGENDA 1) SELECT AN ATTORNEY TO HANDLE THE FIREHOUSE LEASE; 2) SELECT AN ATTORNEY FOR THE FOI ISSUES RAISED BY MR. FEINSTEIN; AND 3) ARBITRATION IS SEEKING MONEY.**

**** MR. FEINSTEIN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

Attorney Dennin commented that there have been two FOI appeals brought forward for a hearing by Mr. Feinstein. They have both been simultaneously scheduled for September 20th. The first item was the December meeting in which Mr. Tenor's contract was terminated and the second was the July meeting wherein the 24-hour notice had not been posted.

In connection with both complaints, Mr. Dennin stated that Mr. Feinstein felt that his office was operating in a conflict of interest. He did some research and said that they were not in conflict as they represent the Commission, not an individual person. Since that finding, Mr. Feinstein has written to the Commission asking that this issue be decided before the September 20th hearing. Attorney Dennin recommended removing that issue so that the merits of the complaint can be addressed which in the long run will save the District legal fees. Attorney Dennin stated that he would withdraw their Appearance and that the Commission appoint special counsel to represent the Commission on September 20th on the two appeals.

Mr. Brown said he inquired of Attorney Dennin who would be a good alternate attorney. Attorney Dennin suggested Attorney Frank Murphy who is a municipal attorney as well. This would allow for the counsel to get down to the details. While Attorney Murphy was available, he would be asked to handle the dialog about the lease on the Firehouse as well. This would relieve Attorney Dennin of any conflict of interest.

**** MR. BROWN MOVED TO SELECT FRANK MURPHY OF TIERNEY FLAHERTY, ZULLO AND MURPHY AS THE SPECIAL ATTORNEY TO HANDLE THE TWO FOI ISSUES ON SEPTEMBER 20TH AND THE FIREHOUSE LEASE ISSUE AT THE RATE OF \$175.00 PER HOUR.**

**** MR. COGGIN SECONDED
** MOTION PASSED UNANIMOUSLY.**

Attorney Murphy will bill the District at the same rate Attorney Dennin would use to handle the appeals according to his agreement.

Mr. Coggin noted that purchase of services usually requires three quotes, but in this case the attorney is substituting for Attorney Dennin who has an existing relationship that is previously approved. The Commissioners agreed.

Attorney Dennin spoke about the arbitration bill. A letter was sent from the American Arbitration Association stating that there was still money owed on Victor Tenor's arbitration. It would appear that before the settlement was reached with Mr. Tenor, there were hearings that were canceled. A letter dated July 29, 2002, from Mr. Weber states that the balance is outstanding since last year.

Mr. Brown said that he feels that the person who set up the arbitration canceled the hearing and the letter does not indicate who canceled. He said it would appear that the bill would come down to the District ultimately, but initially should go to the person ordering the hearings that were never held.

Mr. Coggin stated it appears to be a bill that they want to be reimbursed for. The point could be argued that the District should pay it.

Mr. Brown asked Attorney Dennin what would happen if the Commission refused to pay it. Attorney Dennin said it could possibly go to small claims court.

Mr. Feinstein felt that Shear and Pullman Connolly should pay the bill.

**** MR. FEINSTEIN MOVED THAT THE COMMISSION DECLINE PAYING THE AMERICAN ARBITRATION ASSOCIATION BILL ADDRESSED TO ATTORNEY SHEAR AT PULLMAN CONNOLLY IN THE AMOUNT OF \$2,000 FOR CANCELLATION FEE DATED APRIL 10, 2000. THE REASON BEING THAT IT WAS PRESUMABLY A PART OF PULLMAN CONNOLLY AND WOULD HAVE BEEN SETTLED WHEN THE ITEM WAS SETTLED SEVERAL MONTHS AGO.**

**** MR. COGGIN SECONDED.**
**** MOTION PASSED WITH TWO VOTES IN FAVOR AND ONE ABSTENTION (MR. BROWN).**

**** MR. BROWN MOVED TO SUSPEND THE RULES TO INCLUDE A LETTER REGARDING THE PARKING LOT AT THE LIBRARY.**
**** MR. COGGIN SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

Mr. Coggin stated that a letter dated August 12 requesting black top coating FOR the parking lot needed to be addressed. He inquired whether there has been any action on this item.

Mr. Brown stated that he had not seen the two ads and legal notice in ***The Hour*** and he would inquire about it the following day. He also stated that bids have to be back by September 20, 2002.

Mr. Coggin inquired whether there would be enough time before the weather gets cool. He also asked that the Commission move quickly so that it can be done immediately. The contact person is Mr. Scofield who will receive the bids.

PRESENTATION OF CCTV SECURITY SYSTEM BY TIM LYONS

**** MR. FEINSTEIN MOVED TO DISCUSS ITEM 9, SECURITY, IN EXECUTIVE SESSION.**
**** MR. BROWN SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

The Chairman closed the Regular Session and went into Executive Session. The Chairman ended the Executive Session at 10:06 and resumed the Regular Session.

**** MR. BROWN MOVED TO SUSPEND THE RULES TO VOTE ON SECURING BIDS FOR A SECURITY SYSTEM.**
**** MR. COGGIN SECONDED.**
**** MOTION PASSED UNANIMOUSLY.**

**** MR. COGGIN MOVED TO SECURE A DETAILED BID FROM MR. LYONS AND TWO ADDITIONAL BIDDERS FOR AN INSIDE SECURITY SYSTEM FOR THE THIRD TAXING DISTRICT OFFICE.**

The Chairman asked that Mr. Coggin speak with two other Districts to see how they wrote their RFP for security.

The Commissioners discussed whether the information had to be published. These would be verbal bids and it was felt that no legal announcement was required.

**** MR. COGGIN WITHDREW HIS MOTION.**

The Commissioners decided no motion was necessary as no action was taken requiring a vote. The consensus was to obtain the new bids and then readdress the matter.

ADJOURNMENT

**** MR. FEINSTEIN MOVED TO ADJOURN.**

**** MR. BROWN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

The Chairman adjourned the meeting at 10:14 p.m.

Respectfully submitted,

Alvina L. Richardson Decker
Telesco Secretarial Services